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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,558	12/18/2001	James W. Norris	31859	7317

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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
MAILSTOP: KSOPHT0101-22100
OVERLAND PARK, KS 66251-2100

EXAMINER

SZYMANSKI, THOMAS M

ART UNIT PAPER NUMBER

2134

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/023,558

Applicant(s)

NORRIS ET AL.

Examiner

Thomas Szymanski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-31 have been examined.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 recites the limitation "the audit records" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes U.S.

Patent No. 6,738,911, and further in view of Ko et al. U.S. Patent No. 6,789,202.

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8. Regarding claims 1, 7 and 9: Hayes has taught a server to receive and store records. (Col 2 lines, 35-52, Fig 1 part 124)
9. A server for parsing records for determination of an occurrence or condition. (Col 2 lines 35-39 Fig 1 part 128)
10. A firewall located between the servers and domain. (Fig 1 part 112, Col 2 lines 14-25)
11. Hayes fails to teach the limitation of a profile server.
12. However, Ko et al. has taught a server for storing a current status associated with said condition, capable of being queried by members of the system to thereto implement an action based upon said condition. (Col 3 lines 33-40, Col 4 lines 30-40, Col)
13. Within the system of Ko et al. the server is denoted by a global analyzer that provides for a means of alert recognition and action determination. The host systems within the domain provide for querying of the global analyzer by means of continuous attention to said server for any new condition that may require action. These alerts are relayed via local analyzers to the local systems that provide for a constant state of monitoring for the change of alert status.
14. A non-routable protocol to broadcast said condition (Col 3 lines 40-62, Col 4 lines 35-39)
15. As described per the Ko et al implementation the non-routable protocol is suggested since Ko et al. states the network can include any type of communication to couple the servers to the network. Therefore, in a given implementation within which a given broadcast was inclusive to the network such a non-routable protocol would be a desired functionality and thus implemented.
16. The system of Ko et al. provides for the functionality of a quick broad response to that which is monitored and analyzed by the system of Hayes. Thus one would be motivated to implement the system of Ko et al. within the environment of Hayes since the added functionality

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of relaying such threats is easily communicated across all types of platforms as denoted by Ko et al (background Col 1). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to combine two such systems for the obvious improved functionality that is set forth.

17. Claims 16, 22, 24, and 30 are a computer program and method implementation of claims 1, 7, and 9 and are so objected to on the same basis as claims 1, 7, and 9. As is obvious to anyone of ordinary skill in the art a computer program and method implementation are necessary to realize the use of the invention itself.

18. Regarding claims 2 and 10: domain is defined as a logical grouping of the plurality of members which are not necessarily otherwise related (Ko Col 3 lines 48-62)

19. Claims 17 and 25 are a computer program and method implementation of claims 2 and 10 and are so objected to on the same basis as claims 2 and 10. As is obvious to anyone of ordinary skill in the art a computer program and method implementation are necessary to realize the use of the invention itself.

20. Regarding claims 3 and 11: the logical grouping is based upon a value characteristic and a risk tolerance characteristic of each of the plurality of members.(Ko Col 4 lines 1-4) The systems within each logical grouping are of different natures and as such each has a value characteristic based upon the system type as well as a general risk tolerance that is native to any give system.

21. Claims 18 and 26 are a computer program and method implementation of claims 3 and 11 and are so objected to on the same basis as claims 2 and 10. As is obvious to anyone of ordinary

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skill in the art a computer program and method implementation are necessary to realize the use of the invention itself.

22. Regarding Claims 4 and 12: the detection server applies a threat-detection logic in conjunction with a pre-established threshold value in identifying the occurrence of the threat condition. (Ko Col 4 lines 35-40) Such a function is necessary as it can be seen that all information that is collected from a system will not be reacted to as it is not necessary, only events that are deemed by the system to be of such a nature to require action are necessitate such action as a broadcast by the system.

23. Claims 19 and 27 are a computer program and method implementation of claims 4 and 12 and are so objected to on the same basis as claims 4 and 12. As is obvious to anyone of ordinary skill in the art a computer program and method implementation are necessary to realize the use of the invention itself.

24. Regarding claims 5 and 13:

a. Log server IP address (Hayes Col 3 lines 2-5, 60-66) Denoted by Hayes as a Destination address this would logically be an IP address

b. Configuration/Alert refresh frequency for querying profile server for updates. Within the combined system this feature is noted as being the same action since the host consistently monitors for an alert status from the system and within that same function provides for updating the system as a response to a new alert condition within the network.

c. Device value. (Col 4 lines 5-21) Each system within the network as specified by Ko et al may be of a separate nature and thus have a separate device value.

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d. Threshold value. (Ko Col 4 lines 35-40) As stated above a threshold value exists for determining which occurrences necessitate action by the system.

25. Claims 20 and 28 are a computer program and method implementation of claims 5 and 13 and are so objected to on the same basis as claims 5 and 13. As is obvious to anyone of ordinary skill in the art a computer program and method implementation are necessary to realize the use of the invention itself.

26. Regarding claims 6 and 14: the alert automatically expires, if no additional action is taken, after a pre-defined period of time. Actions taken within the system are defined by the global analyzer, if an alert is asserted from a host system and the global analyzer deems that there is no action necessary then the alert in essence expires within the period of time necessary for the decision to be communicated and analyzed.

27. Claims 21 and 29 are a computer program and method implementation of claims 6 and 14 and are so objected to on the same basis as claims 6 and 14. As is obvious to anyone of ordinary skill in the art a computer program and method implementation are necessary to realize the use of the invention itself.

28. Regarding claims 8 and 15: the occurrence of the threat condition is communicated to a second domain for evaluation and possible pre-emptive action.(Ko Col 4 lines 21-49) Within the provided system the global analyzer provides feedback to the plurality of networks to perform actions as is necessitated by the policy implemented per the global analyzer for each given network so in this manner providing for action within the separate logical groupings.

29. Claims 23 and 31 are a computer program and method implementation of claims 8 and 15 and are so objected to on the same basis as claims 8 and 15. As is obvious to anyone of ordinary

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skill in the art a computer program and method implementation are necessary to realize the use of the invention itself.

Conclusion

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of art disclosed by the references cited and the objections made. Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).

31. Inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas M. Szymanski who can be reached at (571) 272-8574. The examiner's normal working schedule is between the hours 8:00am – 4:30pm (EST), Monday – Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse, can be reached at (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

32. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER